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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,762	10/06/2000	William Y. Hall	BLBV-25,378	1640
23990	7590	06/06/2005	EXAMINER	
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ART UNIT		PAPER NUMBER		
		3625		

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/684,762	HALL ET AL.
	Examiner	Art Unit
	Naeem Haq	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 February 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 and 7-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 and 7-21 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This action is in response to the Applicants' amendment and remarks filed on February 28, 2005. Claim 6 has been canceled. New claims 16-21 have been added. Therefore claims 1-5 and 7-21 are currently pending and will be considered for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially adjacent" in claim 8 is a relative term which renders the claim indefinite. The term "substantially adjacent" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 8-11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman et al. (US 6,052,629) hereinafter referred to as Leatherman in view of Hughes et al. (US 6,288,688 B1) hereinafter referred to as Hughes.

Referring to claims 1, 2, and 10, Leatherman teaches a fuel dispenser advertising system comprising: one or more fuel dispensers operable to dispense fuel (Figure 1, item "12"; column 3, line 65 – column 4, line 6); a display subassembly associated with each of said one or more fuel dispensers for presenting advertising information to a customer (column 2, lines 16-21, lines 52-67; claims 1 and 13); a master interface system for storing advertising information and for transmitting said stored advertising information to each said display subassembly by executing predetermined programming of said advertising information (column 4, line 12 – column 5, line 12; column 6, lines 39-45). Leatherman does not teach that the master interface system receives updates of advertising information from a central office system and synchronizes transmitting of said stored advertising with synchronizing information received from the central office system such that distribution of said advertising information at the location of said master interface system can be synchronized with delivery of similar advertising information at other remote locations. However, Hughes teaches a system for the distribution and display of advertisements wherein a main

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computing unit (i.e. central office) synchronizes its clock with other computers (column 19, lines 30-50) so that sensitive advertisements are played on schedule. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature in to the system of Leatherman. One of ordinary skill in the art would have been motivated to do so in order to ensure that sensitive ads were played on schedule as taught by Hughes. Furthermore, one of ordinary skill in the art would have been motivated to combine the teachings of Hughes with Leatherman's invention in order to reduce communication surcharges as taught by Hughes (column 5, line 58 – column 6, line 17).

Referring to claim 3, Leatherman does not teach that the display is a liquid crystal display (LCD). However, Hughes teaches this limitation (column 6, lines 35-45; column 10, lines 25-30). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the invention of Leatherman. One of ordinary skill in the art would have been motivated to do so in order to use a widely available and commercially successful display screen to display information to a user.

Referring to claim 8 and 9, Leatherman teaches that the master interface system is located substantially adjacent to said one or more fuel dispensers. Leatherman does not teach that the master interface system is physically mated to one or more fuel dispensers. However, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to relocate the master interface system to a more convenient location. Applicant has not disclosed that relocation of the master interface

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system provides an advantage, is used for a particular purpose, or solves a stated problem. Furthermore, one of ordinary skill in the art would have expected the Applicant's invention to perform equally well with the master interface system located in a central location because the particular location of the master interface system would not affect the overall system. Therefore, it would have been obvious to one of ordinary skill in the art to modify the cited prior art to obtain the invention as specified in claims.

Referring to claim 11, the cited prior art does not teach that the master interface system presents emergency broadcast and local public service announcements to said customer. However, the Examiner notes that this limitation is not structurally involved in the elements of the recited system. Therefore this limitation is deemed to be nonfunctional descriptive material. The elements of the system would be the same regardless of what information was presented to the customer. The differences between the content of the Applicants' information and the prior art are merely subjective. Thus this nonfunctional descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display any information in the system of the cited prior art because such information does not structurally relate to the elements of the claimed system and because the subjective interpretation of such information does not patentably distinguish the claimed invention.

Referring to claim 14, Leatherman teaches that the display subassembly is connected to a video camera (claim 20). Leatherman does not teach that the camera focuses on the demeanor of said customer during presentation of said information. However, this limitation merely recites an intended use of a system and is not related to the structural elements of the claimed system. System/apparatus claims should be directed to the structural elements of a system and not to the process of a method or an intended use. *“Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function.”* *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). “Apparatus claims cover what a device is, not what a device does.” *Hewlett-Packard Co. v Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman et al. (US 6,052,629) hereinafter referred to as Leatherman in view of Hughes et al. (US 6,288,688 B1) hereinafter referred to as Hughes and further in view of Johnson, Jr. (US 5,890,520).

The cited prior art teaches all the limitations of claim 1 as noted above. The cited prior art does not teach that the display subassembly is operable to present information when a sensor is triggered in response to the arrival of said customer at a select one of said one or more fuel dispensers. However, Johnson teaches a fuel dispenser system that presents advertising information to a user when a sensor is triggered by the arrival of said user (column 1, line 64 – column 2, line 7; column 6, line 54 – column 7, line 5). Therefore it would have been obvious to one of ordinary skill in the art, at the time the

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invention was made, to incorporate the teachings of Johnson into the cited prior art.

One of ordinary skill in the art would have been motivated to do so in order to keep track of a person or vehicle throughout the fuel station or to provide audible warnings or announcements as taught by Johnson.

Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman et al. (US 6,052,629) hereinafter referred to as Leatherman in view of Hughes et al. (US 6,288,688 B1) hereinafter referred to as Hughes and further in view of Thayer et al (US Patent 5,554,912).

The cited prior art does not teach automatically adjusting the brightness of the electronic display in accordance with ambient light conditions. However, Thayer teaches this limitation (Abstract; column 1, line 1 – column 2, line 67). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Thayer into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to allow a user to view the display screen in all ambient light conditions, as taught by Thayer.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman et al. (US 6,052,629) hereinafter referred to as Leatherman in view of Hughes et al. (US 6,288,688 B1) hereinafter referred to as Hughes in view of Official Notice.

Referring to claim 5, the cited prior art teaches all the limitations of claim 1 as noted above. The prior art does not teach that the master interface system transmits information wirelessly to each display subassembly. However, Official Notice is taken

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that it is old and well known in the art to transmit data wirelessly. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate wireless features into the system of the prior art. One of ordinary skill in the art would have been motivated to do so in order to avoid having to run data cables to each dispenser.

Referring to claim 7, the cited prior art does not teach that the updated information includes only information determined by the central office to be different than said information stored on said master system. However, Official Notice is taken that it is old and well known in the art to for a server to transmit to a terminal only information which is determined to be different than the information stored on the terminal. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to conserve network bandwidth by transmitting as little information as possible.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman et al. (US 6,052,629) hereinafter referred to as Leatherman in view of Hughes et al. (US 6,288,688 B1) hereinafter referred to as Hughes and further in view of Ambrose et al. (US 6,783,028 B1) hereinafter referred to as Ambrose.

The cited prior art teaches all the limitations of claim 1 as noted above. The cited prior art does not teach that the display subassembly comprises a coupon dispenser for dispensing coupons to said consumers in response to a promotional program. However, Ambrose teaches this limitation (Figures 8 and 17). Therefore it would have

been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Ambrose into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to provide greater customer awareness of store products, services, and special sale items as taught by Ambrose (column 1, lines 13-26).

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman et al (US 6,052,629) in view Finley et al (US Patent 6,442,448 B1) and Official Notice.

Referring to claims 16 and 20, Leatherman teaches a fuel dispenser advertising system comprising: one or more fuel dispensers operable to dispense fuel (Figure 1, item "12"; column 3, line 65 – column 4, line 6); a display subassembly associated with each of said one or more fuel dispensers for presenting information to a customer (column 2, lines 16-21, lines 52-67; claims 1 and 13); a master interface system for storing said information and for transmitting said stored information to one or more display subassembly (column 4, line 12 – column 5, line 12; column 6, lines 39-45). Leatherman does not teach that the master interface system downloads updated information from a central office system. However, Finley teaches this limitation (column 8, lines 1-27; column 25, lines 20-25). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Finley into the system of Leatherman. One of ordinary skill in the art would have been motivated to do so in order to provide routine updates as taught by Finley. The cited prior art does not teach that the updated information includes only information

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determined by the central office to be different than said information stored on said master system. However, Official Notice is taken that it is old and well known in the art to for a server to transmit to a terminal only information which is determined to be different than the information stored on the terminal. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to conserve network bandwidth by transmitting as little information as possible.

Referring to claims 17 and 18, the prior art does not teach that the master interface system transmits information wirelessly to each display subassembly. However, Official Notice is taken that it is old and well known in the art to transmit data wirelessly. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate wireless features into the system of the prior art. One of ordinary skill in the art would have been motivated to do so in order to avoid having to run data cables to each dispenser.

Referring to claim 19, the cited prior art does not teach that the master interface system is physically attached to one of said one or more fuel dispensers. However, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to relocate the master interface system to a more convenient location. Applicant has not disclosed that relocation of the master interface system provides an advantage, is used for a particular purpose, or solves a stated problem. Furthermore, one of ordinary skill in the art would have expected the Applicant's invention to perform equally

well with the master interface system located in a central location because the particular location of the master interface system would not affect the overall system. Therefore, it would have been obvious to one of ordinary skill in the art to modify the cited prior art to obtain the invention as specified in claims.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leatherman et al (US 6,052,629) in view Finley et al (US Patent 6,442,448 B1).

Referring to claim 21, Leatherman teaches a fuel dispenser advertising system comprising: one or more fuel dispensers operable to dispense fuel (Figure 1, item "12"; column 3, line 65 – column 4, line 6); a display subassembly associated with each of said one or more fuel dispensers for presenting information to a customer (column 2, lines 16-21, lines 52-67; claims 1 and 13); a master interface system for storing said information and for transmitting said stored information to one or more display subassembly (column 4, line 12 – column 5, line 12; column 6, lines 39-45).

Leatherman does not teach that the master interface system downloads updated information from a central office system. However, Finley teaches this limitation (column 8, lines 1-27; column 25, lines 20-25). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Finley into the system of Leatherman. One of ordinary skill in the art would have been motivated to do so in order to provide routine updates as taught by Finley.

Response to Arguments

In light of the Applicants' admission that amended claim 1 is not patentably distinct over original claim 1 (see Remarks page 9, lines 9 and 10), the restriction of the previous Office action is hereby withdrawn.

Applicants' arguments with respect to claims 1-5 and 7-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (571)-272-6758. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571)-272-7159. The fax phone

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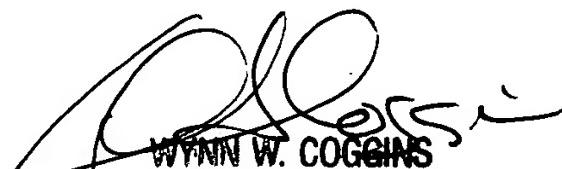
number for the organization where this application or proceeding is assigned is 703-872-9306.

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Naeem Haq, Patent Examiner
Art Unit 3625

May 25, 2005



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